

Docket No.: AMAZON.107A

November 21, 2005

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AF 13661
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SECOND NOTICE OF APPEAL AND TRANSMISSION OF SECOND APPEAL BRIEF

Applicant : Paul Marie Gavarini
App. No : 09/607,841
Filed : June 30, 2000
For : SYSTEM AND METHODS FOR
BROWSING A DATABASE OF
ITEMS AND CONDUCTING
ASSOCIATED TRANSACTIONS
Examiner : Cuong H. Nguyen
Art Unit : 3661

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

November 21, 2005

(Date)

Ronald J. Schoenbaum, Reg. No. 38,297

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner dated August 24, 2005 rejecting Claims 15-22 and 24-37. By filing this Second Notice of Appeal and the enclosed "Second Appeal Brief," Applicant is reinstating the original Appeal in the present application. The fee calculation is shown below.

FEE TYPE	FEE CODE & AMOUNT	AMOUNT PREVIOUSLY PAID	DIFFERENCE (AMOUNT DUE)
Notice of Appeal 41.20(B)(1)	1401 (\$170)	\$170.00	\$0
Appeal Brief 41.20(B)(1)	1402 (\$500)	\$500.00	\$0
TOTAL FEE DUE:			\$0

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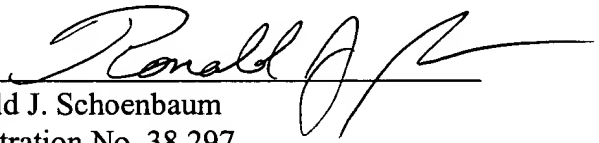
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Enclosed with this Second Notice of Appeal are the following:

- (X) A Second Appeal Brief; and
- (X) A return prepaid postcard.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Dated: November 21, 2005



Ronald J. Schoenbaum
Registration No. 38,297
Attorney of Record
Customer No. 20,995
(949) 760-0404

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Paul Marie Gavarini
Appl. No.	:	09/607,841
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For	:	SYSTEM AND METHODS FOR BROWSING A DATABASE OF ITEMS AND CONDUCTING ASSOCIATED TRANSACTIONS
Examiner	:	Cuong H. Nguyen
Group Art Unit	:	3661

SECOND APPEAL BRIEF UNDER 37 C.F.R. 41.37

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

This Second Appeal Brief is being filed in order to address the modified basis for rejection set forth in the non-final Office Action mailed on August 24, 2005 (hereinafter the "Current Office Action"), which was issued by the Examiner in response to Appellants' original Appeal Brief. The references relied on by the Examiner in the Current Office Action are the same as those relied on in the Final Office Action from which Appellant originally appealed. The Current Office Action differs from the Final Office Action, however, in that (1) the Examiner is no longer relying on Official Notice in connection with certain features of Microsoft Windows, and (2) the Current Office Action more fully addresses the dependent claims.

The CFR sections governing patent appeals apparently no longer set forth a procedure for the Examiner to re-open prosecution in response to an Appeal Brief, or for the Appellant to reinstate the appeal when prosecution is re-opened by the Examiner. The web site of the Board of Patent Appeals and Interferences, however sets forth the following procedure:

An applicant can reinstate an appeal by filing a second notice of appeal in compliance with 37 CFR 41.31 and a complete new brief in compliance with 37 CFR 41.37. Any fees

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paid for the notice of appeal, appeal brief, and request for an oral hearing (if applicable) will be applied to the reinstated or second appeal on the same application as long as a final Board decision has not been made on the first appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have increased since they were previously paid, then applicants must pay the difference between the current fee(s) and the amount previously paid.

BPAI FAQs posted at <http://www.uspto.gov/web/offices/dcom/bpai/fr2004/bpaifaq.html>, comment D3, titled "How does an applicant reinstate an appeal?"

In accordance with the foregoing posting, this Second Appeal Brief is a complete new brief under 37 CFR 41.37 (as opposed to a Supplemental Appeal Brief), and is accompanied by a second Notice of Appeal and a check to cover the difference between the current appeal fees and those previously paid.

Please charge any additional fees that may be required now or in the future, or credit any overpayment, to Deposit Account No. 11-1410.

I. REAL PARTY IN INTEREST

The real party in interest in the present application is Amazon Technologies, Inc., which is the assignee of record of the present application.

II. RELATED APPEALS AND INTERFERENCES

No related appeals or interferences are pending.

III. STATUS OF CLAIMS

Claims 15-22 and 24-37 are currently pending in the application, and are attached hereto as an appendix. All of these claims stand rejected and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments have been made in response to either the Final Office Action or the Current Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes three independent claims. Each independent claim is paraphrased below, with citations to corresponding portions of the specification and drawings as required by 37 C.F.R. § 41.37(c)(1)(v). These citations are provided in order to illustrate specific examples and embodiments of the recited claim language, and not to limit the claims.

Claim 15 is directed to a method of facilitating browsing of a database of items. Specific embodiments of this method are described at the following locations in the originally-filed specification: page 3, lines 1-13; page 13, line 10 to page 16, line 4; and page 21, line 10 to page 22, line 2. The method comprises receiving a search query from a user, and executing the search query to generate a search results list of items within the database that match the search query (see Figure 15, in which the search query "1955" is entered into a search field 176; and Figure 27, blocks 268 and 270). The method additionally comprises presenting to the user a first web page (Figure 16) that displays at least a portion of the search results list (180 in Figure 16) together with an option to save the search query for subsequent use (182 and 184 in Figure 16). In response to election of said option by the user, the search query is stored in association with a category name specified by the user (see Figure 27, blocks 274-288). The method further comprises presenting to the user a second web page (Figure 17) that provides an option for the user to select the category name (188 in Figure 17) to view an updated list of items within the database that match the search query (Figure 18; and Figure 27, block 290). The search query and category name serve as a user-defined category that may be selected by the user over time to browse the database.

Claim 24 is directed to a system for facilitating browsing of an electronic catalog. Specific embodiments of the claimed system are described in the specification in the same locations as identified above, namely page 3, lines 1-13; page 13, line 10 to page 16, line 4; and page 21, line 10 to page 22, line 2. The system comprises a database (Figure 2, element 84) which contains an electronic catalog of items, and a server system (Figure 2, elements 78, 80, and 51) coupled to the database. The server system provides a user interface (see, e.g., Figures 17 and 18) for browsing the electronic catalog over a computer network, and includes functionality for users to at least (1) formulate and submit search queries for searching the electronic catalog (Figure 15; Figure 27, blocks 268-274), (2) assign category names to individual search queries

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(Figure 16; Figure 27, blocks 276-286), and (3) save the search queries and associated category names on the server system for subsequent use as user-defined categories that are selectable via the user interface to browse the electronic catalog of items (Figures 16 and 17; and Figure 27, blocks 282-290). The server system presents to a user that has created one or more user-defined categories a web page (Figure 17) that lists the one or more user-defined categories such that each such category may be selected to view a corresponding set of catalog items (Figure 18).

Claim 32 is directed to a computer-implemented method of facilitating browsing of an electronic repository of items (repository shown in Figure 2 as element 84). Specific embodiments of this method are described primarily at page 22, line 3 to page 23, line 4 of the originally filed specification. The method comprises maintaining a history (Figure 27A, element 284) of search queries submitted by a user to search the electronic repository of items; analyzing the history of search queries to identify a search query that has been submitted multiple times by the user (Figure 27A; element 292); and in response to identifying the search query, creating for the user, or providing to the user an option to create, a persistent link that is selectable by the user to view a current set of items within the repository that match the search query (Figure 27A, elements 294, 296 and 288; and Figures 17 and 18).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The sole ground for rejection to be reviewed on appeal is the ground for the rejection of Claims 15-22 and 24-37, namely obviousness under 35 U.S.C. § 103(a) over U.S. Patent No. 6,169,986 to Bowman et al. (hereinafter "Bowman") in view of U.S. Patent 6,331,858 to Fisher (hereinafter "Fisher").

In both the Final Office Action and the Current Office Action, the Examiner commented on two additional references—U.S. Patent No. 5,870,717 to Wiecha and U.S. Patent 6,055,573 to Gardenswartz et al.—that are not relied on to reject any of the claims (see Current Office Action at section 3). These two additional references are addressed in the arguments section below.

VII. ARGUMENT

1. **Rejection of Claims 15-22 and 24-37 over Bowman and Fisher.**

For the reasons set forth below, Appellant respectfully submits that the obviousness rejection of Claims 15-22 and 24-37 is improper.

Independent Claim 15

As set forth below, the rejection of Claim 15 is improper both (a) because Bowman and Fisher do not disclose or suggest all of the limitations of Claim 15, and (b) because the Examiner has not identified a suggestion or motivation in the prior art to combine the teachings of Bowman and Fisher. The claim is reproduced below, with reference characters added for purposes of discussion.

15. A method for facilitating browsing of a database of items, the method comprising:

- (a) receiving a search query from a user;
- (b) executing the search query to generate a search results list of items within the database that match the search query;
- (c) presenting to the user a first web page that displays at least a portion of the search results list together with an option to save the search query for subsequent use;
- (d) in response to election of said option by the user to save the search query, storing the search query in association with a category name specified by the user; and
- (e) presenting to the user a second web page that provides an option for the user to select the category name to view an updated list of items within the database that match the search query;
- (f) whereby the search query and category name serve as a user-defined category that may be selected by the user over time to browse the database.

(a) Bowman and Fisher do not disclose or suggest all of the limitations of Claim 15.

In rejecting Claim 15, the Examiner relies in part on Bowman, which discloses a web-based search engine for searching an electronic catalog of an online merchant. As observed by the Examiner, Bowman discloses the limitations of subparagraphs (a) and (b). Bowman also discloses the presentation of a search results web page (Figure 9), and thus discloses the

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following limitations of subparagraph (c): “presenting to the user a first web page that displays at least a portion of the search results list.” Bowman’s search results page does not, however, include “an option to save the search query for subsequent use,” and thus does not disclose or suggest all of the limitations of subparagraph (c). In addition, Bowman does not disclose or suggest the limitations of subparagraphs (d)-(f).

In connection with these “deficiencies” in Bowman, the Examiner appears to take the position that a user of the search engine disclosed in Bowman could have used Windows to cut-and-paste a search query from a web page of Bowman’s system to a text file, and then save this text file on his or her hard drive under a designated category name. Current Office Action at section 4, fourth bullet point. The Examiner does not, however, provide any evidence to suggest that users of Bowman’s system, or any other web-based search engine, would have used Microsoft Windows in this manner.

In addition, even if a user of Bowman’s search engine were to use Windows to save a search query in this manner, some of the limitations of subparagraphs (c) and (d) still would not be met. For example, with respect to subparagraph (c), the user in this scenario would not be presented with a web page that displays “at least a portion of the search results list *together with an option to save the search query for subsequent use.*” In addition, with respect to subparagraph (d), the limitations “in response to election of said option by the user” would not be met. The Examiner does not acknowledge these deficiencies in the proposed combination of Bowman and Microsoft Windows.

Further, if a user of Bowman’s search engine were to save a search query using Microsoft Windows, the limitations of subparagraph (e) would not be met. The Examiner appears to acknowledge this deficiency, but apparently takes the position that these limitations are suggested by Fisher. To the extent this may be the Examiner’s position, Appellant respectfully disagrees. Fisher discloses a user interface (Figure 3) that includes two frames, each of which displays a respective web page. The left-hand frame displays fabric samples, or other types of finishes, that are available for specific physical objects, such as pieces of furniture. The right-hand frame displays a domestic interior, including a set of physical objects to which the fabrics or finishes can be applied. When the user selects a particular fabric in the left-hand frame, the right-hand frame is updated to show how the corresponding physical object will look with this fabric.

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Even if read in the context of the Examiner's asserted combination of Bowman and Microsoft Windows, nothing in Fisher suggests "presenting to the user a second web page that provides an option for the user to select the category name to view an updated list of items within the database that match the search query," as recited in subparagraph (e) of Claim 15. Thus, even if the teachings of Fisher were somehow incorporated into Bowman's search engine, and/or the operating system of the PC used to access that search engine, the limitations of subparagraph (e) still would not be met.

In view of the foregoing, the rejection of Claim 15 is improper because Bowman and Fisher do not disclose or suggest all of the limitations of the claim. See e.g., MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art.").

Finally, to the extent the Examiner may be relying on U.S. Patent No. 5,870,717 to Wiecha to reject Claim 15 (see Current Office Action at section 3, first paragraph, in which the Examiner informally comments on this reference), Appellant respectfully submits that Wiecha similarly fails to disclose or suggest at least subparagraphs (c) and (e) of Claim 15. Thus, even if Wiecha were somehow combined with Bowman and Fisher, the resulting combination still would not disclose or suggest all of the limitations of Claim 15.

(b) The Examiner has not identified a motivation or suggestion to combine Bowman and Fisher.

The rejection of Claim 15 is also improper because the Examiner has not identified a suggestion or motivation in the prior art to combine Bowman and Fisher. See, e.g., In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998) ("When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references."). In connection with this issue, the Examiner states the following:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bowman, et al., and Fisher to disclose about presenting different web pages for searching and for selecting because they already suggest available knowledge for searching on the Internet at the time of invention, and it would make the search process being organized and time-saving in looking for specific ordering/searching items; further, it would be a designer's choice to present a search result in different webpage;

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however, the examiner submits that a sequence of result in a list is easy to manage/control while surfing.

Appellant respectfully submits that the Examiner's statement does not identify any suggestion or motivation—either in the references themselves or in any other potential source of prior art—to combine Bowman and Fisher. The only portion of the Examiner's statement that identifies a potential suggestion or motivation to combine is the Examiner's assertion that the combination would make the search process more “organized and time-saving.” This assertion, however, is not supported by the references. In this regard, the Examiner has not identified any disclosure in either Bowman or Fisher that would suggest to one skilled in the art that a more organized and time saving search process could be obtained by combining Bowman and Fisher. In addition, the Examiner has made no attempt to explain how or why the combination of these two references would produce a more organized and time saving search process. Thus, the Examiner has not met his burden of identifying a suggestion or motivation to combine Bowman and Fisher.

In summary, because Bowman and Fisher fail to disclose or suggest all of the limitations of Claim 15, and because the Examiner has not identified a motivation or suggestion to combine Bowman and Fisher, the rejection of Claim 15 is improper.

Dependent Claim 16

Claim 16 depends from Claim 15, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 15. In addition, Claim 16 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 16, namely “wherein the second web page displays, in conjunction with the category name specified by the user, a numerical value indicating a number of items falling within the user-defined category.”

At section 5A of the Current Office Action, the Examiner asserts that these limitations are disclosed or suggested by Bowman. The Examiner does not, however, identify any specific disclosure in Bowman to support this assertion.

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Dependent Claim 17

Claim 17 depends from Claim 16, and is therefore patentable over Bowman and Fisher for the reasons set forth above for both Claim 15 and Claim 16. In addition, Claim 17 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 17, namely “wherein the numerical value is generated by re-executing the search query when the user requests the second web page, such that the numerical value accurately reflects a current state of the database.”

At section 5B of the Current Office Action, the Examiner appears to take the position that the browser “refresh” button shown in Figure 9 of Bowman can be used to cause the search query to be re-executed, and thus to cause a display of a “hits” value to be updated. Nothing in Bowman, however, suggests that the disclosed search engine system operates in this manner.

Dependent Claim 18

Claim 18 depends from Claim 15, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 15. In addition, Claim 18 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 18, namely “wherein the user-defined category is maintained private to the user, and is listed on the second web page together with one or more public categories that are selectable by the user, whereby the user can select between the private and public categories to browse the database.”

At section 5C of the Current Office Action, the Examiner asserts that the feature recited in Claim 18 “would be analogous to sending an email to an address, and also simultaneously sending said email to a different address.” Appellant respectfully disagrees. Appellant also submits that the Examiner’s analogy is not material to the patentability of Claim 18.

Dependent Claim 19

Claim 19 depends from Claim 15, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 15. In addition, Claim 19 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 19, namely “wherein the user-defined category is a user-defined product category that is private to the user, and is displayed on the second web page together with one or more public, merchant-defined product categories, wherein each user-defined and merchant-defined product category is

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displayed on the second web page as a respective hyperlink that is selectable by the user to view a corresponding set of products represented in the database.”

In connection with these limitations, the Examiner relies on a query log entry 330 shown in Figure 3 of Bowman. Current Office Action at section 5D. Nothing in this query log entry, however, or in the associated description at col. 9, lines 7-36 of the query log, discloses or suggests the limitations recited by Claim 19.

Dependent Claim 20

Claim 20 depends from Claim 15, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 15. In addition, Claim 20 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 20, namely “wherein the category name is displayed on the second web page as a hyperlink that, when selected, causes a set of items falling within the user-defined category to be displayed.”

Appellant respectfully disagrees with the Examiner’s assertion—at section 5E of the Current Office Action—that these limitations are taught by the query submission page shown in Figure 2 of Bowman.

Dependent Claim 21

Claim 21 depends from Claim 15, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 15. In addition, Claim 21 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 21, namely “further comprising the computer-implemented steps of: comparing the search query to a history of search queries submitted by the user to identify substantially-identical query submissions; and using the substantially-identical query submissions to automatically generate or suggest a personalized category for the user.”

At section 5F of the Current Office Action, the Examiner asserts that it is “old and well-known that for accuracy and time saving, past search terms/query would be used again (re-submit) by a searcher after manually comparison [sic] against search history.” Even if this assertion is accurate (which Appellant does not admit), however, it does not follow that it would be obvious to perform the computer-implemented steps recited in Claim 21.

In section 3 of the Office Action, the Examiner appears to additionally take the position that the limitations added by Claim 21 are taught by an additional reference, U.S. Patent

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6,055,573 to Gardenswartz et al., that is not formally relied on in rejecting any claims. See Current Office Action at section 3, third paragraph. Gardenswartz et al. does not, however, disclose or suggest the limitations added by Claim 21. Thus, even if Gardenswartz et al. were somehow combined with Bowman and Fisher, the invention defined by Claim 21 still would not be disclosed or suggested.

Dependent Claim 22

Claim 22 depends from Claim 21, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claims 15 and 21. In addition, Claim 22 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 22, namely “further comprising providing to the user an option to accept, and assign a name to, the personalized category.”

At section 5G of the Current Office Action, the Examiner asserts that the feature recited in Claim 22 is “old and well-known.” The Examiner does not, however, cite any reference to support this assertion. To the extent the Examiner may be relying on the Official Notice doctrine, Appellant respectfully challenges and traverses the Examiner’s use of Official Notice in connection with Claim 22.

Independent Claim 24

As set forth below, the rejection of independent Claim 24 is improper both because (a) Bowman and Fisher do not disclose or suggest all of the limitations of the claim, and (b) the Examiner has not identified a suggestion or motivation in the prior art to combine the teachings of Bowman and Fisher. The claim is reproduced below:

24. A system for facilitating browsing of an electronic catalog, the system comprising:

- a database which contains an electronic catalog of items; and
- a server system coupled to the database, the server system providing a user interface for browsing the electronic catalog over a computer network, the user interface including functionality for users to at least (1) formulate and submit search queries for searching the electronic catalog, (2) assign category names to individual search queries, and (3) save the search queries and associated category names on the server system for subsequent use as user-defined categories that are selectable via the user interface to browse the electronic catalog of items;

wherein the server system presents to a user that has created one or more user-defined categories a web page that lists the one or more user-defined categories such that each such category may be selected to view a corresponding set of catalog items.

(a) Bowman and Fisher do not disclose or suggest all of the limitations of Claim 24.

The rejection of Claim 24 is improper because, among other reasons, Bowman and Fisher do not disclose or suggest, in the context of the other limitations of the claim, a “server system” that provides “a user interface for browsing the electronic catalog over a computer network, the user interface including functionality for users to at least (1) formulate and submit search queries for searching the electronic catalog, (2) assign category names to individual search queries, and (3) save the search queries and associated category names on the server system for subsequent use as user-defined categories that are selectable via the user interface to browse the electronic catalog of items.”

Even if a user of Bowman’s search engine were to use Microsoft Windows to store a search query on his or her PC via a cut-and-paste operation, as suggested by the Examiner, these limitations still would not be met. In such a scenario, the user interface used to store the search queries and associated category names would be provided by the user’s PC, and not by “the server system” as required by Claim 24. In addition, the search queries and associated category names in such a scenario would be stored locally on the PC of the user, and not “on the server system” as required by Claim 24. Nothing in Fisher overcomes these deficiencies in the asserted combination of Bowman and Microsoft Windows.

The rejection is also improper because Bowman and Fisher fail to disclose or suggest the following limitations of Claim 24: “wherein the server system presents to a user that has created one or more user-defined categories a web page that lists the one or more user-defined categories such that each such category may be selected to view a corresponding set of catalog items.” Nothing in either Fisher or Bowman suggests these limitations.

To the extent the Examiner may be relying on U.S. Patent No. 5,870,717 to Wiecha to reject Claim 24 (see Current Office Action as section 3, first paragraph, in which the Examiner informally relies on this reference), Appellant respectfully submits that Wiecha does not disclose

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or suggest the above-noted limitations of Claim 24. Thus, even if Wiecha were somehow combined with Bowman and Fisher, the resulting combination still would not disclose or suggest all of the limitations of Claim 24.

(b) The Examiner has not identified a motivation or suggestion to combine Bowman and Fisher.

Appellant additionally submits that the rejection of Claim 24 is improper because, as set forth above in connection with independent Claim 15, the Examiner has not identified a suggestion or motivation in the prior art to combine Bowman and Fisher.

Dependent Claim 25

Claim 25 depends from Claim 24, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 24. In addition, Claim 25 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 25, namely “wherein the web page additionally displays, for each of the user-defined categories, a numerical value indicating a current number of catalog items falling within the respective user-defined category.”

At section 5A of the Current Office Action, the Examiner appears to take the position that these limitations are disclosed or suggested by Bowman. The Examiner does not, however, identify any specific disclosure in Bowman to support this assertion.

Dependent Claim 26

Claim 26 depends from Claim 25, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claims 24 and 25. In addition, Claim 26 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 26, namely “wherein the server system generates each such numerical value by executing the corresponding search query when the user requests the web page.”

At section 5B of the Current Office Action, the Examiner appears to take the position that the browser “refresh” button shown in Figure 9 of Bowman can be used to cause a search query to be re-executed, and thus to cause the display of a “hits” value to be updated. Nothing in Bowman, however, suggests that the disclosed search engine system operates in this manner.

Dependent Claim 27

Claim 27 depends from Claim 24, and stands or falls with Claim 24.

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Dependent Claim 28

Claim 28 depends from Claim 24, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 24. In addition, Claim 28 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 28, namely “wherein the server system maintains the user-defined categories created by a user private to that user, and displays the user-defined categories together with public categories that are also selectable to browse the electronic catalog.”

In connection with these limitations, the Examiner cites Figure 1 of Bowman. Current Office Action at section 5H. Figure 1 of Bowman does not, however, show any functionality for either (1) maintaining user-defined categories created by a user private to that user, or (2) displaying the user-defined categories together with public categories that are also selectable to browse the electronic catalog. In this regard, the query correlation table 137 shown in Figure 1 appears to merely indicate how frequently specify query terms have historically co-occurred within the search queries of a population of users. Thus, the Examiner’s reliance on Figure 1 of Bowman appears to be misplaced.

Dependent Claim 29

Claim 29 depends from Claim 28, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claims 24 and 28. In addition, Claim 29 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 29, namely “wherein the server system presents each user-defined category and each public category on the web page as a respective hyperlink that is selectable by the user to view corresponding catalog items.”

In connection with these limitations, the Examiner relies on the query log entry 330 shown in Figure 3 of Bowman. Current Office Action at section 5D. Nothing in this query log entry, however, or in the associated description at col. 9, lines 7-36, discloses or suggests the limitations recited by Claim 29.

Dependent Claim 30

Claim 30 depends from Claim 24, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 24. In addition, Claim 30 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim

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30, namely “wherein the server system automatically compares queries submitted by the same user to identify query resubmission events, and uses the query resubmission events to automatically create and/or suggest categories for users.”

At section 5F of the Current Office Action, the Examiner asserts that it is “old and well known that for accuracy and time saving, past search terms/query would be used again (re-submit) by a searcher after manually comparison [sic] against search history.” Even if this assertion is accurate (which Appellant does not admit), however, it does not follow that it would be obvious to provide a “server system [that] automatically compares queries submitted by the same user to identify query resubmission events, and uses the query resubmission events to automatically create and/or suggest categories for users.”

In section 3 of the Office Action, the Examiner appears to additionally take the position that the limitations added by Claim 30 are taught by Gardenswartz et al. See Current Office Action at section 3, third paragraph. Gardenswartz et al. does not, however, disclose or suggest the limitations added by Claim 30. Thus, even if Gardenswartz et al. were somehow combined with Bowman and Fisher, the invention defined by Claim 30 still would not be disclosed or suggested.

Dependent Claim 31

Claim 31 depends from Claim 24, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 24. In addition, Claim 31 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 31, namely “wherein the user interface provides an option for a user to specify a display order for displaying a personal set of user-defined categories.”

In connection with these limitations, the Examiner cites Figure 1 of Bowman. Current Office Action at section 5H. Nothing in Figure 1 or any other portion of Bowman, however, suggests a user interface that provides an option for a user to specify a display order for displaying a personal set of user-defined categories.

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Independent Claim 32

Claim 32 reads as follows:

32. A computer-implemented method of facilitating browsing of an electronic repository of items, the method comprising:
maintaining a history of search queries submitted by a user to search the electronic repository of items;
analyzing the history of search queries to identify a search query that has been submitted multiple times by the user; and
in response to identifying the search query, creating for the user, or providing to the user an option to create, a persistent link that is selectable by the user to view a current set of items within the repository that match the search query.

As set forth below, the rejection of Claim 32 is improper both (a) because Bowman and Fisher do not disclose or suggest all of the limitations of Claim 32, and (b) because the Examiner has not identified a suggestion or motivation in the prior art to combine the teachings of Bowman and Fisher.

(a) Bowman and Fisher do not disclose or suggest all of the limitations of Claim 32.

The obviousness rejection of Claim 32 is improper because, among other reasons, Bowman and Fisher do not disclose or suggest, within the context of the other limitations of the claim, “analyzing the history of search queries to identify a search query that has been submitted multiple times by the user.” The obviousness rejection of Claim 32 is also improper because Bowman and Fisher do not disclose or suggest “in response to identifying the search query, creating for the user, or providing to the user an option to create, a persistent link that is selectable by the user to view a current set of items within the repository that match the search query.”

In the Current Office Action, the Examiner does not specify which, if any, of Bowman and Fisher he is relying on in connection with the above-quoted limitations of Claim 32. Instead, the Examiner appears to take the position that these limitations are disclosed or suggested by Gardenswartz et al.—a reference that is not formally applied to any of the claims. See Current Office Action at section 3, third paragraph. Gardenswartz et al. does not, however, disclose or

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suggest “analyzing the history of search queries to identify a search query that has been submitted multiple times by the user,” or “in response to identifying the search query, creating for the user, or providing to the user an option to create, a persistent link that is selectable by the user to view a current set of items within the repository that match the search query.” Thus, even if Gardenswartz et al. were somehow combined with Bowman and Fisher, the resulting combination still would not disclose or suggest all of the limitations of Claim 32

(b) The Examiner has not identified a motivation or suggestion to combine Bowman and Fisher.

The rejection of Claim 32 is also improper because, as set forth above for Claim 15, the Examiner has not identified a suggestion or motivation in the prior art to combine Bowman and Fisher.

Dependent Claim 33

Claim 33 depends from Claim 32, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 32. In addition, Claim 33 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 33, namely “prompting the user to assign a name to the search query, and displaying the name in conjunction with the persistent link.”

At section 5A of the Current Office Action, the Examiner takes the position that these limitations are taught by Bowman. The Examiner does not, however, identify any specific disclosure in Bowman to support this assertion.

Dependent Claim 34

Claim 34 depends from Claim 32, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 32. In addition, Claim 34 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 34, namely “displaying, in conjunction with the persistent link, a numerical value indicating a current number of items that match the search query.”

At section 5A of the Current Office Action, the Examiner takes the position that these limitations are taught by Bowman. The Examiner does not, however, identify any specific disclosure in Bowman to support this assertion.

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Dependent Claim 35

Claim 35 depends from Claim 32, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 32. In addition, Claim 35 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 35, namely “wherein the step of analyzing the history of search queries comprises comparing search queries on a term-by-term basis to locate search queries that are substantially identical.”

At section 5F of the Current Office Action, the Examiner asserts that it is “old and well-known that for accuracy and time saving, past search terms/query would be used again (re-submit) by a searcher after manually comparison [sic] against search history.” The Examiner does not, however, provide any evidence to support this assertion. In addition, the Examiner does not explain why the feature recited in Claim 35 would be obvious in view of such an “old and well-known” practice.

Dependent Claim 36

Claim 36 depends from Claim 32, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 32. In addition, Claim 36 is patentable over Bowman and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 36, namely “including the persistent link within a personal categories page in which the persistent link serves as one of a plurality of item categories that are selectable to browse the electronic repository.”

At section 5I of the Current Office Action, the Examiner asserts that the feature recited in Claim 36 is “old and well-known.” The Examiner does not, however, cite any reference to support this assertion. To the extent the Examiner may be relying on the Official Notice doctrine, Appellant respectfully traverses and challenges the Examiner’s use of Official Notice in connection with Claim 36.

The Examiner also references an Amazon.com feature known as “Customers who viewed this item also viewed.” The Examiner does not, however, explain how this feature is relevant to the limitations set forth in Claim 36.

Dependent Claim 37

Claim 37 depends from Claim 32, and is therefore patentable over Bowman and Fisher for the reasons set forth above for Claim 32. In addition, Claim 37 is patentable over Bowman

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and Fisher because Bowman and Fisher do not disclose or suggest the limitations added by Claim 37, namely "wherein the persistent link is created for the user automatically in response to identifying the search query that has been submitted multiple times."

At section 5F of the Current Office Action, the Examiner asserts that it is "old and well-known that for accuracy and time saving, past search terms/query would be used again (re-submit) by a searcher after manually comparison [sic] against search history." The Examiner does not, however, provide any evidence to support this assertion. In addition, the Examiner does not explain why the feature recited in Claim 37 would be obvious in view of such an "old and well-known" practice.

VIII. CONCLUSION

For the reasons set forth above, Appellant respectfully submits that the rejection of Claims 15-22 and 24-37 is improper and should be reversed.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11-21-05

By: 

Ronald J. Schoenbaum

Reg. No. 38,297

Knobbe, Martens, Olson & Bear, LLP

2040 Main Street, 14th Floor

Irvine, CA 92614

Customer No. 20,995

CLAIMS APPENDIX

15. A method for facilitating browsing of a database of items, the method comprising:
- receiving a search query from a user;
 - executing the search query to generate a search results list of items within the database that match the search query;
 - presenting to the user a first web page that displays at least a portion of the search results list together with an option to save the search query for subsequent use;
 - in response to election of said option by the user to save the search query, storing the search query in association with a category name specified by the user; and
 - presenting to the user a second web page that provides an option for the user to select the category name to view an updated list of items within the database that match the search query;
- whereby the search query and category name serve as a user-defined category that may be selected by the user over time to browse the database.
16. The method of Claim 15, wherein the second web page displays, in conjunction with the category name specified by the user, a numerical value indicating a number of items falling within the user-defined category.
17. The method of Claim 16, wherein the numerical value is generated by re-executing the search query when the user requests the second web page, such that the numerical value accurately reflects a current state of the database.
18. The method of Claim 15, wherein the user-defined category is maintained private to the user, and is listed on the second web page together with one or more public categories that are selectable by the user, whereby the user can select between the private and public categories to browse the database.

19. The method of Claim 15, wherein the user-defined category is a user-defined product category that is private to the user, and is displayed on the second web page together with one or more public, merchant-defined product categories, wherein each user-defined and merchant-defined product category is displayed on the second web page as a respective hyperlink that is selectable by the user to view a corresponding set of products represented in the database.

20. The method of Claim 15, wherein the category name is displayed on the second web page as a hyperlink that, when selected, causes a set of items falling within the user-defined category to be displayed.

21. The method of Claim 15, further comprising the computer-implemented steps of:
comparing the search query to a history of search queries submitted by the user to identify substantially-identical query submissions; and
using the substantially-identical query submissions to automatically generate or suggest a personalized category for the user.

22. The method of Claim 21, further comprising providing to the user an option to accept, and assign a name to, the personalized category.

24. A system for facilitating browsing of an electronic catalog, the system comprising:
a database which contains an electronic catalog of items; and
a server system coupled to the database, the server system providing a user interface for browsing the electronic catalog over a computer network, the user interface including functionality for users to at least (1) formulate and submit search queries for searching the electronic catalog, (2) assign category names to individual search queries, and (3) save the search queries and associated category names on the server system for subsequent use as user-defined categories that are selectable via the user interface to browse the electronic catalog of items;

wherein the server system presents to a user that has created one or more user-defined categories a web page that lists the one or more user-defined categories such that each such category may be selected to view a corresponding set of catalog items.

25. The system of Claim 24, wherein the web page additionally displays, for each of the user-defined categories, a numerical value indicating a current number of catalog items falling within the respective user-defined category.

26. The system of Claim 25, wherein the server system generates each such numerical value by executing the corresponding search query when the user requests the web page.

27. The system of Claim 24, wherein the electronic catalog is an electronic catalog of products that are available for purchase, and the user-defined categories are user-defined product categories.

28. The system of Claim 24, wherein the server system maintains the user-defined categories created by a user private to that user, and displays the user-defined categories together with public categories that are also selectable to browse the electronic catalog.

29. The system of Claim 28, wherein the server system presents each user-defined category and each public category on the web page as a respective hyperlink that is selectable by the user to view corresponding catalog items.

30. The system as in Claim 24, wherein the server system automatically compares queries submitted by the same user to identify query resubmission events, and uses the query resubmission events to automatically create and/or suggest categories for users.

31. The system as in Claim 24, wherein the user interface provides an option for a user to specify a display order for displaying a personal set of user-defined categories.

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32. A computer-implemented method of facilitating browsing of an electronic repository of items, the method comprising:

maintaining a history of search queries submitted by a user to search the electronic repository of items;

analyzing the history of search queries to identify a search query that has been submitted multiple times by the user; and

in response to identifying the search query, creating for the user, or providing to the user an option to create, a persistent link that is selectable by the user to view a current set of items within the repository that match the search query.

33. The method of Claim 32, further comprising prompting the user to assign a name to the search query, and displaying the name in conjunction with the persistent link.

34. The method of Claim 32, further comprising displaying, in conjunction with the persistent link, a numerical value indicating a current number of items that match the search query.

35. The method of Claim 32, wherein the step of analyzing the history of search queries comprises comparing search queries on a term-by-term basis to locate search queries that are substantially identical.

36. The method of Claim 32, further comprising including the persistent link within a personal categories page in which the persistent link serves as one of a plurality of item categories that are selectable to browse the electronic repository.

37. The method of Claim 32, wherein the persistent link is created for the user automatically in response to identifying the search query that has been submitted multiple times.

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EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None

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